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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18TH DAY OF JUNE, 1998

BEFORE

THE HON'BLE MR. JUSTICE H.L. DATTU

WRIT PETITION 18067/1998

BETWEEN :

Sri G. Vishwanath Rao
s/o. Gopal Rao,
Thatavala Road,
Magadi Town,
Bangalore dist.

... PETITIONER

(By Sri R. Gururajan, Adv.)

AND :

1. Karnataka Electricity
Board, having its
office at Cauvery
Bhavan,
Bangalore - 9,
rep. by its
Secretary.

2. The Asst Executive
Engineer-Electrical,
Karnataka Electricity
Board, Magadi.

... RESPONDENTS

(By Sri N.K. Gupta, Adv.)

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This writ petition is filed under Article 226 of the Constitution of India with a prayer to quash annexure B dated 04.06.1998 and etc.

This writ petition coming on for preliminary hearing this day, the Court made the following;

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ORDER

Petitioner is a consumer of the power supplied by the respondent Electricity Board. Petitioner has been provided with electrical installation bearing No.MGP-397/3.49. He is before this court mainly questioning the back billing charges raised by the respondent Board in No.AEEE/MSD/98-99/459-61 dated 4.6.1998. By the said demand, respondent Board has directed the petitioner to pay a sum of Rs.1,01,227/- towards back billing charges.

2. Sri Gururajan, learned counsel for the petitioner contends that the respondent Board without issuing a show cause notice and without affording an opportunity of hearing to the petitioner could not have issued the impugned back billing charges. In support of this contention, learned counsel relies upon the observations made by this court in the case of SHREEJEE PLASTICS VS. KARNATAKA ELECTRICITY BOARD (ILR 1994 Karnataka 1151). In the aforesaid decision, this court was pleased to observe as under:

" Power arising out of a bill, the officer has to hold a summary enquiry and the officer is required to issue 8 days notice to the consumer calling upon him to have his say in the matter and file his

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objections against the proposed action of raising the bill. The authorised officer is also along with the notice, issue material which is sought to be relied upon by the Authorised Officer including the copy of mahazar report and report of spot enquiry etc., It is only after considering the written objection and a personal hearing, the same has not been done in the instant case."

3. Keeping in view the well settled legal position, let me advert to the facts situation of the present case. In the instant case, the respondent Board in the impugned order does not say that prior to the framing of the impugned back billing charges, had issued any notice to the petitioner and had afforded an opportunity for filing his objections. In the absence of the same, in my view, the impugned order made by the respondents authorities is contrary to observations made by this court in the case of SHREEJEE PLASTICS and is in violation of rules of natural justice.

4. In that view of the matter, petition is disposed off. Petitioner is directed to treat the impugned order as show cause notice and file his objection with 30 days from today. If such objections are filed by the petitioner, respondent

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Board/Local Authority shall consider that objections and pass appropriate orders. In the meanwhile, if the petitioner deposits a sum of Rs.35,000/- within Four weeks from today, respondent authorities will resume the supply of the electrical energy to the petitioner's installation.

5. With these observations, petition is disposed off. Ordered accordingly.

6. Sri N.K.Gupta, learned counsel is permitted to file his memo of appearance within four weeks from today.

Sd/-
JUDGE

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